

**PRACTICES AND PROCEDURES OF  
JUDGE ARTHUR J. SCHWAB  
(Effective 03/20/03)**

**I. GENERAL MATTERS**

**A. Communications with the Court**

The Court has a preference for communications to be in the form of a motion so that they can be docketed.

**B. Communications with Law Clerks**

Communications with law clerks concerning the administration, not the merits of a case, is permissible. Such inquiries would include those pertaining to the status of any pending matter.

**C. Telephone Conferences**

Attorneys and parties are permitted to participate by telephone in conferences, except for settlement conferences and the initial case management conference, unless otherwise ordered by the Court. (For settlement conferences, both counsel and parties are expected to appear in person.) However, as to all telephone conferences, the Court shall be last to be joined to a conference call initiated by counsel.

**D. Pro Hac Vice Admissions**

Pro Hac Vice admissions should be done by motion. However, the motion need not be in writing.

**E. Comments to the Media**

Counsel are expected to adhere the Rules of Professional Conduct in all dealings, including their dealings with the media as it relates to a pending matter.

**II. MOTIONS PRACTICE**

**A. Oral Argument**

Oral argument is entertained only on selected, factually and legally complex matters, but not otherwise. An order will be issued should the Court deem oral argument necessary.

**B. Briefs**

Briefs in support of a motion shall be filed at the same time as the motion with respect to all motions except discovery motions, motions for extensions of time, and motions for continuance for which no briefs are required. There is a page restriction of 15 (fifteen) pages regarding all moving and responsive briefs filed with the Court. Reply and surreply

briefs are not to be filed without leave of Court, and will be limited to 5 pages if leave is granted.

C. **Chamber Copies of Motion Papers**

Counsel are requested to send courtesy copies of all motions and briefs to chambers. Voluminous exhibit binders should be omitted as they are available from the Clerk of Courts' file.

D. **Scheduling**

Parties are given twenty (20) days to file a response to a motion unless otherwise ordered by the Court.

E. **Magistrate Judge's Report and Recommendation**

Reports and Recommendations to which objections have been filed will not be decided until a response is filed by the non-objecting party (or opposite party if both object). Briefs not in excess of ten (10) pages are encouraged. If no objections have been filed, a decision is made solely on the basis of the R & R and the briefs already filed. Objections and appeals to Magistrate Judge orders on discretionary issues pertaining to discovery disputes are discouraged.

F. **Evidentiary Hearings**

Hearings necessitated by pretrial motions (e.g., suppression of confession or evidence) will be held on the day of trial unless otherwise ordered by the Court.

G. **In Limine Motions**

Motions in limine with supporting briefs are encouraged and must be filed two (2) weeks in advance of trial. Unless there is a good reason not to do so, in limine motions will be ruled upon in advance of trial (see Side Bars, *infra*).

III. **CIVIL CASES**

A. **Pretrial Procedures**

1. **Local Rule 16.1**

A standard form case management order based on L.R. 16.1 is utilized. Each case is designated as Track I or Track II. Other than the requirements of L.R. 16.1, no additional items are included in the order. Copies of the standard form Case Management and pretrial orders are available on the Court website.

2. **Pretrial Conferences**

An initial case management conference is scheduled within 30 (thirty) days of the filing of a responsive pleading. At the initial conference, the L.R. 16 Order (Case Management Order) is issued after discussion with counsel as to the length of time necessary for discovery, handling of expert witnesses and other matters.

Additional case management conferences take place on request of counsel and in all cases prior to the trial date to discuss settlement and/or trial. Counsel are encouraged to request the assistance of the Court on any matter and conferences can be conducted by telephone to handle routine problems provided all counsel initiate the call.

3. **Settlement**

Counsel is required to obtain full settlement authority with his or her client prior to a scheduled settlement or pretrial conference. The client must be present at all settlement conferences. ADR possibilities are explored in detail at settlement conferences. Mini-trials may be conducted when the parties genuinely believe it will assist settlement.

4. **Extensions and Continuances**

There are no special rules governing extensions and continuances. Occasionally restrictions will be placed on further extension when the case is not moving. Motions must be filed seeking such extensions or continuances. Extension for dates regarding Court appearances will be granted infrequently.

B. **Discovery Matters**

1. **Length of Discovery Period and Extensions**

Generally 90 (one hundred twenty) days is permitted for discovery unless the parties indicate that a different time frame is needed and the Court approves that time frame. Extensions of time for discovery are permitted, for cause shown and that the case has been advanced by counsel during the initial period of discovery.

2. **Expert Witnesses**

Discovery depositions of expert witnesses are nearly always permitted after completion of fact discovery. Expert witness discovery is reciprocal.

3. **Deposition Disputes**

For discovery disputes that arise during a deposition, the attorneys together may contact the Court to determine whether the Court wishes to resolve the matter at that time.

4. **Stay of Discovery**

The filing of a dispositive motion will not automatically stay discovery. A stay may be sought by motion and will be granted only if the right to relief under the dispositive motion is clear or there is some other good reason. In some cases, discovery may be limited to those facts in support or opposition to the dispositive motion (e.g., Motion to Dismiss on grounds of lack of in personam jurisdiction).

5. **Limitations on Discovery**

No standard form restrictions on the number of interrogatories or length of depositions are employed beyond those set forth in the Federal Rules of Civil Procedure. However, the parties are expected to use their common sense and discretion in discovery matters, and the Court will entertain by motion requests to limit when the discovery propounded is unreasonable.

6. **Rule 11 Motions - Rule 37 Sanctions**

The Court expects counsel to avoid the necessity for the filing of the same through the exercise of good professional judgment, common courtesy and civility. Counsel fees and costs will be awarded in appropriate circumstances.

C. **Injunctions and TRO's**

Ex parte contact with the Court should be avoided. Therefore, the moving party must establish that serious efforts were made to contact the opposing party or its counsel prior to seeking relief, supported by the F.R.C.P. Rule 65(b) Affidavit regarding the same. Otherwise, the Court will not hold a hearing on the matter or issue a temporary restraining order.

The moving papers in support of a Motion for TRO or Preliminary Injunction should include Affidavit(s) in support of the Motion with all relevant agreements attached to the Affidavit(s). Any response to the Motion for TRO or Preliminary Injunction also must be accompanied by Affidavit(s).

Obviously, all requests for injunctions and temporary restraining orders are handled as expeditiously as possible and the Court will, in its discretion, after review of the pleadings and Affidavit(s), determine whether or not to conduct a hearing and, if so, the scope of the testimony.

**D. Patent Cases**

All patent cases before the Court shall follow the Northern District of California's Local Rules of Practice for Patent Cases. These Local Rules can be found at <http://www.cand.uscourts.gov>.

**E. Trial Procedures**

**1. Scheduling of Cases**

On or before the pretrial conference, a date for trial will be set. There generally is one or more backup case set for the same date. Counsel in backup cases generally will have a minimum of one (1) week notice prior to being called to trial. Vacation schedules, family conflicts and personal conflicts are accommodated where possible.

**2. Trial Hours/Days**

Court is in trial session Monday through Thursday, 9:00 a.m. to 4:00 p.m. with breaks when appropriate. Fridays are reserved for pretrial and status conferences, sentences and evidentiary hearings. Counsel must be available at 8:30 a.m. (or earlier if necessary to ensure that trial commences on time) to meet with the Court concerning scheduling, trial problems, and to obtain advance rulings on evidentiary or other issues.

**3. Trial Briefs**

Trial briefs are optional, but appreciated. There are no filing date restrictions, but the briefs are much more useful and more likely to be given serious consideration if filed at least ten (10) days before trial. Trial briefs should not exceed fifteen (15) pages. In bench trials, counsel are required to submit proposed findings of fact and conclusions two (2) weeks in advance of trial along with a disk/CD containing the proposed findings of fact and conclusions of law formatted in WordPerfect 10.

**4. Voir Dire**

The Courtroom Deputy conducts voir dire in civil cases. Counsel are permitted to supplement the standard questions provided that the proposed supplemental voir dire questions are submitted to the

Court in writing one (1) week in advance of trial. Any supplemental voir dire questions approved by the Court will be asked by the Courtroom Deputy.

5. **Notetaking by Jurors**

Jurors are permitted to take notes.

6. **Side Bars**

The Court believes counsel should be considerate of the use of jurors' time. Consequently, side bars are highly disfavored because they waste the jury's time and unduly extend the length of the trial. (Counsel are required to file motions in limine together with supporting briefs two (2) weeks in advance of trial with regard to evidentiary matters.) Counsel will meet with the Court at 8:30 a.m. (or earlier if necessary to ensure that trial commences on time) each day to raise points of evidence or other issues that would otherwise necessitate a side bar conference. Failure to raise the issue at that time will generally result in a disposition of the in Court objection in the presence of the jury.

7. **Examination of Witnesses Out of Sequence**

Where appropriate, witnesses may be examined out of sequence upon request of a party. Witnesses may be examined in any order to which counsel agrees. For example, counsel could agree that expert witnesses for each side will testify back to back.

8. **Opening Statements and Summations**

Up to thirty (30) minutes is permitted to each side for opening and closing statements, depending on the complexity of the case.

9. **Examination of Witnesses or Argument by More Than One Attorney**

Co-counsel are not permitted to split up the examination of a witness.

10. **Examination of Witnesses Beyond Direct and Cross**

Redirect and recross examination is not permitted without leave of Court.

11. **Videotaped Testimony**

The Court has no special procedures except those set out in the local rules.

12. **Reading of Material into the Record**  
Counsel can devise their own methodology, provided opposing counsel agrees.
13. **Exhibits**  
All exhibits must be marked and exchanged in advance of trial. Copies are to be provided for the Court in binders properly labeled one (1) day in advance of trial, unless otherwise ordered by the Court. All objections to exhibits are to be made and ruled upon prior to trial. Counsel are not to take time during trial to exchange exhibits with each other as this will have been accomplished pretrial. With advance notice and approval of the Court, visual aids and exhibits may be used during opening statements. Exhibits need not be offered into evidence in numeric order.
14. **Directed Verdict Motions**  
The only requirements are in the Federal Rules of Civil Procedure.
15. **Jury Instructions**  
Counsel are required to submit proposed jury instructions and verdict slips at least two (2) weeks prior to trial, along with computer disk/CD containing the instructions in WordPerfect 10. A charging conference will be held, at which time a ruling will be made on each point for charge and a copy of the Court's proposed charge will be supplied to counsel. Counsel are required to state objections to the proposed charge at the charging conference and to supply the alternate language, together with case authority.
16. **Proposed Findings of Fact and Conclusions of Law**  
Proposed findings of fact and conclusions of law are required in bench trials and in jury trials as to matters requiring the Court to make preliminary findings prior to a ruling. These are to be submitted two (2) weeks in advance of trial along with a computer disk/CD containing the proposed findings of fact and conclusions of law formatted in WordPerfect 10.
17. **Offers of Proof**  
There should be no requests for offers of proof during trial as the parties will have discussed the witnesses at the 8:30 a.m. conference with the Court.

18. **General Courtroom Rules**

Counsel can conduct the trial in any manner they see fit, provided it is done with courtesy and civility.



**D. Jury Deliberations**

**1. Written Jury Instructions**

The jury will be provided with a copy of the jury instructions.

**2. Exhibits in the Jury Room**

Generally, the jury has with it all admitted exhibits during its deliberation.

**3. Jury Requests to Read Back Testimony or Replay Tapes During Deliberations**

Requests to read back testimony or replay tapes during deliberations generally will be denied.

**4. Jury Questions**

All written questions submitted by the jury are supplied to counsel. Counsel and the Court meet to discuss and hopefully agree on a reply. The jury is then summoned to the courtroom in most cases and the verbal reply is given to them. The written reply is also provided where appropriate.

**5. Availability of Counsel During Jury Deliberations**

Trial counsel need not remain in the courtroom area, but must be available by telephone so that they can promptly return to the courthouse upon being contacted by the Court.

**6. Interviewing the Jury**

Interviewing of jurors post-verdict is discouraged, but the jury is told that it is up to them to decide if they choose to be interviewed.

**IV. CRIMINAL CASES**

**A. Motions**

Motions for extension of time to file pretrial motions are generally granted, especially if there is a significant amount of discovery material, the case involves a wiretap or a complex factual situation. Appropriate language excluding delays from the operation of the Speedy Trial Act should be included in an order accompanying the motion.

**B. Pretrial Conferences**

A status conference well in advance of trial is scheduled in each case.

C. **Guilty Pleas**

There are no special rules regarding guilty pleas and no deadlines for accepting or rejecting plea bargains. Counsel are encouraged to plea bargain as early as possible to avoid tying up trial time. A written format is followed at the date set for change of plea. Counsel may have a copy of the colloquy on request.

D. **Voir Dire**

The Courtroom Deputy conducts the voir dire in criminal cases. Counsel may supplement any standard voir dire with questions they propose. However, proposed voir dire questions are to be submitted to the Court at least one (1) week prior to trial. Any supplemental voir dire questions approved by the Court will be asked by the Courtroom Deputy.

E. **Trial**

Counsel may decide when or if they will present an opening statement. Defense counsel may not open both before and after the prosecution.

Sidebars are disfavored and will not be permitted if it is to decide an issue that could have been decided before or after Court.

Motions in limine are to be filed, together with supporting brief, at least two (2) weeks in advance of trial.

Transcripts of tape recorded conversations are permissible.

The government is encouraged to turn over Jencks Act material no later than the date jury selection begins.

Brady material should be exchanged well in advance of trial.

Special interrogatories to the jury will be submitted upon request of counsel in appropriate cases.

A copy of the jury instructions will be provided to the jury.

Counsel are required to submit proposed jury instructions at least two (2) weeks prior to trial, along with a computer disk/CD containing the instructions in WordPerfect 10. A charging conference will be held, at which time a ruling will be made on each point for charge and a copy of the court's proposed charge will be supplied to counsel. Counsel are required to state objections to the proposed charge at the charging

conference and to supply the alternate language, together with case authority.

F. **Objections to Presentence Investigation Report**

These must be submitted by counsel well in advance of the sentencing hearing if counsel expect to receive tentative findings and conclusions from the Court.

Tentative Findings and Conclusions Concerning Disputed Facts or Factors will be provided to counsel in advance of the sentencing hearing.

The parties will be notified in advance and provided with reasons in cases when a downward or an upward departure is contemplated.

V. **BANKRUPTCY CASES**

N/A

VI. **BANKRUPTCY APPEALS (TO THE DISTRICT COURT)**

A. **Filing and Scheduling**

Briefs are to be filed within 30 (thirty) days by the appellant and 30 (thirty) days thereafter by the appellee.

B. **Oral Argument**

Oral argument is not generally scheduled, but may be granted upon request.

C. **Other General Practices/Procedures**

Briefing schedules and other deadlines imposed by the Federal Rules of Bankruptcy Procedure will be modified where appropriate on the request of the party.

(Effective 03/20/03)

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

\_\_\_\_\_

Plaintiff,

v.

\_\_\_\_\_

\_\_\_\_\_

Defendants.

**CASE MANAGEMENT ORDER (TRACK I)**

**AND NOW**, this \_\_\_\_\_ day of \_\_\_\_\_, 2003, **IT IS ORDERED** that this action is placed under Local Rule 16.1 of this Court for pretrial proceedings and all provisions of the Rule will be strictly enforced. This action is designated a **Track I** case under Local Rule 16.1.3.

**IT IS FURTHER ORDERED** that counsel shall confer with their clients prior to all case management, status, or pretrial conferences to obtain authority to participate in settlement negotiations to be conducted by the Court. Counsel are encouraged to instruct the principals to be available by telephone to facilitate the amicable resolution of all litigation.

**IT IS FURTHER ORDERED**, that compliance with provisions of Rule 16.1 shall be completed as follows:

- (1) The parties shall move to amend the pleadings or add new parties by \_\_\_\_\_ . *(30 days before the end of discovery)*
- (2) The parties shall complete discovery by \_\_\_\_\_. *(90 days*

EXHIBIT A

*after the filing of the Answer*) All interrogatories, depositions, requests of admissions, and requests for production shall be served within sufficient time to allow responses to be completed prior to the close of discovery.

(3) Responses to motions to compel are due within 10 calendar days of the filing of the motion.

(4) Motions for summary judgment with evidentiary material and accompanying brief, if appropriate, shall be filed by \_\_\_\_\_. **(30 days after the end of discovery.) Responses to motions shall be filed within 20 days of filing of such motion.** Briefs supporting or opposing summary judgment motions shall not exceed 15 pages, excluding tables of authorities. Reply and surreply briefs shall not be filed unless approved/requested by the Court.

(5) Plaintiff's pretrial narrative statement shall comply with Rule 16.1.4.A, and be filed by \_\_\_\_\_. **(45 days after the completion of filing of summary judgment briefs)**

(6) Defendant's pretrial narrative statement shall comply with Rule 16.1.4.B, and be filed by \_\_\_\_\_. **(65 days after the completion of filing of summary judgment briefs)**

\_\_\_\_\_(7) Material facts not identified in the pretrial narrative statements may be excluded upon objection or sua sponte. Witnesses or exhibits not identified in the pretrial narrative statements shall not be admissible at trial, except for an exhibit to be used solely for impeachment purposes. Plaintiff should use numbers with a "P"

## EXHIBIT A

prefix to designate exhibits (e.g., P1, P2, . . .); Defendant should use numbers with a “D” prefix to designate exhibits (e.g., D1, D2, . . .).

- (8) The parties shall not amend or supplement their pretrial narrative statements without leave of Court.
- (9) All parties shall file an indication whether or not they are willing to proceed to trial in front of a Magistrate Judge by \_\_\_\_\_. (*56 days after the close of discovery*)
- (10) **EXPERT’S REPORTS AND DISCOVERY: (If applicable)**
- (a) Plaintiff’s expert reports shall be filed by \_\_\_\_\_.
- (b) Defendant’s expert reports shall be filed by \_\_\_\_\_.
- (c) All expert depositions shall be completed by \_\_\_\_\_.
- (11) The Court shall conduct a pretrial conference on \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ (time) Room 914, U.S. Post Office & Courthouse, Seventh Avenue and Grant Street, Pittsburgh, Pennsylvania. Trial counsel must attend. (*To be left blank for the court to fill in at Case Management Conference*)

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Arthur J. Schwab  
United States District Judge

cc: All Counsel of Record

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

**PRETRIAL ORDER**

**AND NOW**, this \_\_\_\_\_ day of \_\_\_\_\_, 2003, the Court **HEREBY**  
**ORDERS** as follows:

**A. Final Pretrial Orders:**

1. **Jury Selection & Trial.** Jury selection and trial are set for \_\_\_\_\_ at \_\_\_\_\_, Courtroom 7, 9th Floor, United States Post Office & Courthouse, Seventh Avenue and Grant Street, Pittsburgh, Pennsylvania.
2. **Exchange of Witness Lists and Exhibits.**
  - a. Plaintiff shall serve and submit to the Court its list of trial witnesses, listing separately the witnesses it will call and the witnesses it may call if needed (other than purely for impeachment). For each witness listed Plaintiff shall provide an offer of proof explaining the substance of the witness' testimony. The offers of proof shall be no more than one (1) double-spaced page with twelve (12) point font. Plaintiff's witness list and offers of proof shall be due by \_\_\_\_\_. (*1 month before trial*)
  - b. Defendant shall serve and submit to the Court its list of trial witnesses, listing separately the witnesses it will call and the witnesses it may call if needed (other than purely for impeachment). For each witness listed Defendant shall provide an offer of proof explaining the substance of the witness' testimony. The offers of proof shall be no more than one (1) double-spaced page with twelve (12) point font. Defendant's witness list

and offers of proof shall be due by \_\_\_\_\_. (*3 weeks before trial*)

- c. All exhibits must be exchanged and marked in advance of trial. Copies are to be provided for the Court in binders properly labeled (“Plaintiff’s Exhibits” and “Defendants’ Exhibits”) at least (2) days in advance of trial, unless otherwise ordered by the Court. In addition, counsel shall be prepared to compile and agree to a single exhibit binder (“Joint Exhibit Binder”) containing the most significant exhibits that will be submitted to the jury at the close of trial. Counsel shall plan to submit 11 copies of the Joint Exhibit Binder (8 for the jury and 3 for the Court).
- d. Voluminous data shall be presented by summary exhibits pursuant to Fed.R.Evid. 1006, and voluminous exhibits shall be redacted to eliminate irrelevant material (which shall remain available for examination by opposing counsel). Where copies of documents are offered, the originals shall be available for examination, unless waived by stipulation.

3. **Designation of Discovery Excerpts to be Offered at Trial.** The parties shall submit designation of excerpts from depositions, interrogatory answers, and responses to requests for admission to be offered at trial (other than for impeachment) by \_\_\_\_\_. (*2 weeks before trial*)

4. **Motions.** The parties shall file all motions in limine, including motions under Fed.R.Evid. 104(a) and motions to limit or sever issues, together with supporting briefs or memoranda of law, by \_\_\_\_\_. (*2 weeks before trial*) Responses shall be filed by \_\_\_\_\_. (*10 days before trial*) All briefs supporting or opposing such motions are



limited to 5 pages.

5. **Proposed Jury Instructions & Verdict Slips.** Counsel are required to submit proposed jury instructions and verdict slips at least \_\_\_\_\_, *(2 weeks before trial)* along with computer disk/CD containing the instructions in WordPerfect 10 format. A charging conference will be held, at which time a ruling will be made on each instruction and a copy of the Court's proposed jury instructions will be supplied to counsel. Counsel are required to state objections to the proposed jury instructions at the charging conference and to supply the alternate language, together with case authority.

6. **Proposed Voir Dire.** Counsel are permitted to supplement the standard questions provided that the proposed supplemental voir dire questions are submitted to the Court in writing by \_\_\_\_\_. *(10 days before trial)* Any supplemental voir dire questions approved by the Court will be asked by the Courtroom Deputy.

7. **Joint Stipulations.** The parties shall file joint stipulations by \_\_\_\_\_. *(10 days before trial)* All possible stipulations shall be made as to:

- a. Facts;
- b. Issues to be decided;
- c. The authenticity and admissibility of exhibits;
- d. Expert qualifications and reports;
- e. Deposition testimony to be read into the record; and
- f. A brief statement of the claims and defenses to be read to the jury to introduce the trial.

Counsel shall meet at a mutually convenient time and place to produce the joint stipulation in time for

filing as ordered.

8. **Final Pretrial Conference.** A final pretrial conference shall be held on \_\_\_\_\_ at \_\_\_\_\_, (*1 week before trial*) Room 916, 9th Floor, United States Post Office and Courthouse, Seventh Avenue and Grant Street, Pittsburgh, Pennsylvania.

9. **Courtesy Copies.** Courtesy copies of all items required to be filed and served pursuant to this order shall be delivered to chambers forthwith.

### **B. Trial Procedure**

1. **Hours.** Court is in trial session, unless otherwise ordered by the Court, Monday through Thursday, 9:00 a.m. to 4:00 p.m. with breaks where appropriate. **All counsel are expected to be in their seats and ready to commence at the appointed times.**

2. **Exhibits.** Because counsel will have previously marked and exchanged all exhibits and provided a copy to the Court, it will not be necessary during the trial to show exhibits to opposing counsel prior to using them.

3. **Approached the Witness.** It will not be necessary for counsel to request permission to approach a witness.

4. **Opening and Closing Statements.** Up to thirty (30) minutes is permitted to each side for opening and closing statements, depending on the complexity of the case. Counsel may use exhibits or charts in opening argument provided that the same have been provided to opposing counsel beforehand and either agreement was reached or the Court has ruled upon the matter.

5. **Side Bar Conferences.** The Court believes that counsel should be considerate of the

jurors' time. Consequently, side bar conferences are highly disfavored because they waste the jury's time and unduly extend the length of the trial. Counsel will meet with the Court at 8:30 a.m. (or earlier if necessary to ensure that trial commences on time) each day to raise points of evidence or other issues that would otherwise necessitate a side bar conference. Failure to raise the issue at that time will generally result in a disposition of the in-court objection in the presence of the jury. If necessary, counsel and the Court may amplify their objections and rulings on the record after the jury has been excused for a break, lunch or for the day.

In addition, it is expected that counsel will anticipate evidentiary issues requiring lengthy argument and will take up such matters out of the presence of the jury. The Court will be available at **8:30 a.m.** each morning to address such issues. It is the responsibility of counsel to notify other counsel of the need for a conference at 8:30 a.m. and all other counsel will be expected to be there at the appointed time for argument. **THE COURT WILL NOT DELAY THE PROCEEDINGS TO RESPOND TO LAST MINUTE REQUESTS FOR CONFERENCES TO DISCUSS MATTERS WHICH, IN THE EXERCISE OF REASONABLE DILIGENCE, COULD HAVE BEEN HEARD AT THE MORNING CONFERENCE.**

6. **Witness List.** Prior to the commencement of the trial, counsel shall provide opposing counsel with a complete witness list, and shall provide opposing counsel throughout the trial with the actual list of the next day's witness by 5:00 p.m. in the order they are expected to be called. The same procedure will be employed by both sides at the end of each trial day.

7. **Note Taking.** The jury shall be permitted to take notes.

8. **Jury Questions.** All written questions submitted by the jury are supplied to counsel.

Counsel and the Court will meet to discuss and hopefully agree on a reply. The jury is then summoned to the Courtroom in most cases and the verbal reply is given to them. The written reply is provided where appropriate.

9.     **Jury Instructions.** A copy of the jury instructions shall be provided to the jury for use during its deliberations.

10.    **Jury Access to Exhibits.** Unless otherwise advised by counsel, it will be assumed that all admitted exhibits will be sent out with the jury.

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Arthur J. Schwab  
United States District Judge

cc:     All counsel of record as listed below